IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 19128 of 2003

Between:

G. Chinnarao, S/o. Yerakaiah
R/o. Chirala, Prakasam Dist.

..... PETITIONER

AND

1 The A.P. State Road Transport Corporation,
rep. by its Managing Director, Musheerabad, Hyderabad.
2 The Regional Manager, A.P. State Road Transport Corporation,
Prakasam Region, Ongole, Prakasam Dist.
3 The Depot Manager, A.P. State Road Transport Corporation
Chirala Depot, Prakasam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of Writ of Mandamus declaring the proceedings No. 02/259(1)/87-RM (O) dated 14-8-2003 of the 2nd Respondent as arbitrary, illegal, in violative of Article 14 of the Constitution of India and to issue a consequential direction to the Respondents to consider the case of the Petitioner for replacement of existing vehicle without there being any reference of pendency of civil proceedings forthwith.

Counsel for the Petitioner: MR.SUBBA RAO KORRAPATI

Counsel for the Respondents: MR.VENKATESWARLU POSANI (S.C. for A.P.S.R.T.C.)

The Court made the following :

O R D E R :

Heard both sides.

The petitioner herein, who is owner of a bus bearing No.A.P.16W 7079, filed this Writ Petition, *inter alia,* seeking a Writ of Mandamus to declare impugned proceedings dated 14.08.2003 passed by the second respondent herein rejecting the request of the petitioner for replacement of the bus and plying of the bus on the road from Chirala to Vijayawada.

The case of the petitioner is that in terms of the agreement entered into with the respondents, the petitioner has been running the said bus from 08.09.1998 onwards from Chirala to Vijayawada. However, subsequently, in view of the disputes arose as to the distance between Chirala to Vijayawada, there has been certain claims by the respondents herein to a tune of more than Rs.2,00,000/- and on that ground the respondents are trying to rescind from the contract and so, denied the petitioner his legitimate right. Further, it is submitted that already the petitioner filed O.S.No.8 of 2002 on the file of the Senior Civil Judge, Chirala for declaration that the respondents can not deduct any such amount, and obtained interim injunction in I.A.No.116 of 2002, which is still subsisting. Having regard to the said aspect, which is *sub judice*, the respondents can not deny the petitioner's request. Hence, the Writ Petition.

In the Counter Affidavit filed on behalf of the respondents, it is stated that it is only in regard to the said dispute as to the distance, the petitioner is liable to make good the said amount and without it he

can not run the bus. Further, in view of the fact that the said period has already expired, the petitioner has no right to claim any benefit thereunder.

Having considered the submissions made and also on perusal of material, it is seen that at the relevant point of time, the petitioner was running the bus and it is only due to the dispute as to the distance, certain amounts have been claimed by the respondents, as a result of which the petitioner has approached Civil Court and obtained interim injunction. Therefore, the respondents can not place any reliance on the said aspect of recovery of the amount or adjustment thereof especially when the matter is *sub judice*, while considering the petitioner's request for plying the said bus. No doubt, the period stood expired, but the respondents can not take any advantage thereof. In the circumstances, it will be more apt on the part of the respondents to reconsider the issue once again without insisting upon the aspect of recovery of the above said amount.

In the circumstances, the Writ Petition is allowed. The impugned order is set aside. The respondents are directed to reconsider the mater afresh on merits after giving notice and opportunity, without raising any objection in regard to the aforesaid amount, which is already *sub judice* in a Civil Court. No costs.

26.10.2004

DRK

Copy to :

1 The A.P. State Road Transport Corporation,
rep. by its Managing Director, Musheerabad, Hyderabad.

2 The Regional Manager, A.P. State Road Transport Corporation,
Prakasam Region, Ongole, Prakasam Dist.
3 The Depot Manager, A.P. Road Transport Corporation
Chirala Depot, Prakasam Dist.

4 Two CD copies.

That Rule Nisi has been made absolute as above.

Witnesseth the Hon'ble Sri Devinder Gupta, the Chief Justice, on this the Tuesday the Twenty sixth day of October, Two thousand and four.

Assistant Registrar

/True copy/

Section Officer

1 The Managing Director, A.P. State Road Transport Corporation,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P. State Road Transport Corporation,
Prakasam Region, Ongole, Prakasam Dist.
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